THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.18947 of 2000

Dated: 05.10.2007

Between:

Nanduri Sundara Ramacharyulu and others.

.. Petitioners

And

The Executive Officer, Agasteeswaraswamy Temple,
Kolakaluru Village, Tenali Mandal, Guntur District
and others.

.. Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.18947 of 2000

ORDER;

The petitioners saying that they are living in the lands in question for the last 60 years approached this Court and filed the present writ petition questioning the orders passed by the Regional Joint Commissioner, Endowments Department-4th respondent herein in R.P.No.11 of 2000.

2. Several facts had been narrated by the petitioners in the affidavit filed in support of the writ petition stating that they are the absolute owners of their respective house sites shown as the land belonging to the Endowments department under encroachment by them. The said land is in demarcation No.(D.No.) 886 of Kolakaluru village. They further stated that the total extent of the land covered by D.No.886 is 0.78 cents and it originally belonged to Zamindar of Sattenapalli, who gave the said land along with other agricultural lands about 500 years back to their ancestors, and from their ancestors, they inherited the said property and ever since the said land has been in their continuous possession and enjoyment.

They further stated that their father filed O.S.No.3 of 1943 on the file of Munsif Magistrate, Tenali for declaring that the lands given to them are Inam lands and for mandatory injunction directing the Government to remove the names of the newly added persons and

insert the name of their father in the concerned revenue records and the same was decreed as prayed for. Against the said orders, the Endowment Board filed A.S.No.60 of 1944 on the file of Subordinate Judge, Tenali, which was also dismissed. It is also stated that about 50 years back, the first and second petitioners constructed their houses in their respective lands. The petitioners further stated that even prior to that i.e., in the year 1940, their father constructed the house in the said land, which is now in possession of the 3rd petitioner, and they have been regularly paying property tax to Kolakaluru Gram Panchayat in respect of the said land.

The main grievance of the petitioners is that on the complaint made by the 2nd respondent, encroachment notices were issued to them initiating separate proceedings in O.As.13/91, 17/91 and 18/91 against them and after conducting the summary enquiry, the 3rd respondent passed the order dated 29.01.2000 directing them to remove their structures within 30 days from the date of receipt of the order, and against the order dated 29.01.2000, the petitioners preferred R.P.No.11 of 2000 before the 4th respondent and the same was dismissed on 16.09.2000 without going into the merits of the case and in a hasty manner without giving an opportunity of being heard to them in support of their case. Hence, this writ petition.

3. A detailed counter sworn to by the Executive Officer, Sri Agastheswara Swamy Temple, is filed on behalf of the respondents including the 4th respondent on 21.11.2000 i.e., about seven years from now, stating that subsequent to the passing of the dismissal order in AS.No.60 of 1944 preferred by the Endowments Board, the temple authorities preferred SS.No.809 of 1947 and the same was allowed on 07.08.1952, and against the said order dated 07.08.1952, the father of

the petitioners filed Civil Appeal No.147 of 1956 before the Hon'ble Supreme Court of India and it was dismissed.

It is further stated that R.P.No.11 of 2000 filed by the petitioners against the Endowments Department was dismissed on 16.09.2000, and thereafter, the Assistant Commissioner of Endowments implemented the orders passed by the Deputy Commissioner of Endowments in O.A.No.13, 17 and 18 of 1991 and removed the encroachers i.e., petitioners from the lands in question with the help of the Station House Officer, Tenali. It is further stated that accordingly the said land in question, which was in possession of the petitioners, was handed over to the Executive Officer on 04.11.2000, and thereafter, the temple authorities erected fencing around the said land.

4. Having regard to the aforesaid facts and circumstances of the case, this Court is of the view that no orders need be passed in this writ petition at this length of time.

5. Accordingly, this writ petition is dismissed. No order as to costs.

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(GOPALA KRISHNA TAMADA,J)

Dt.05.10.2007

v v